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JAN KAUFMAN and ELLIOT GRUBMAN, on behalf of herself and all others similarly situated Plaintiff(s)-Petitioner(s)

-VS-

FAIRWAY OPERATING CORP., ET. AL.

Defendant(s)-Respondent(s)

STATE OF NEW YORK }  
COUNTY OF SCHENECTADY ss. }

I, Mark E. McClosky being duly sworn, deposes and says that deponent is over the age of eighteen years, is not a party in this proceeding and resides in New York State.

On AUGUST 30, 2007 at 2:15 P.M.  
Deponent served a true copy of **SUMMONS AND COMPLAINT**  
bearing index number: 07 CV 7525 and date of filing: 8/24/2007  
upon **FAIRWAY UPTOWN LLC**  
at address: **SECRETARY OF STATE, 41 STATE STREET**  
City & State: **ALBANY, NY 12207**

MANNER OF SERVICE

Personal

☐ By delivering to and leaving with personally }  
known to the deponent to be the same person mentioned and described in the above proceeding as the person to be served.

Suitable Age Person

☐ By delivering and leaving with personally }  
at the premises which is recipient's actual place of business/usual place of abode. Such person knowing the person to be served and associated with him/her, and after conversing with him/her, deponent believes him/her to be a suitable age and discretion.

Authorized Agent

☒ By delivering and leaving with } **MARYBETH HUYCK**  
the agent for service on the person in this proceeding designated under Rule 303 LLC. Service having been made to such person at the place, date and time above.

Affixing to Door, Etc.

☐ By affixing a true copy of each to the door of the actual place of business, dwelling place or usual place of abode stated above.  
☐ Deponent was unable with due diligence to find the proper or authorized person to be served, or a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode stated above after having called there on the following dates and times:

Mailing

☐ Deponent completed service by depositing a true copy of each in a postpaid, properly addressed envelope in an official depository under the exclusive care and custody of the United States Postal Service. The package was labeled "Personal & Confidential" and mailed to the person stated above at address  
on . The envelope did not indicate on the outside that the communication was from an attorney or concerned an action against the recipient. The envelope was mailed by first class mail certified mail registered mail return receipt requested.

Deponent further states upon information and belief that said person so served is not in the Military service of the State of New York or the United States as the term is defined in either State or Federal statutes.

DESCRIPTION } deponent describes the person actually served as:

Sex: FEMALE Race/Skin Color: WHITE  
Approximate Age: 42 years Approximate Height: 5'5"  
Other:

Hair Color: BLONDE  
Approximate Weight: 140 pounds

Subscribed and sworn before me on } AUGUST 30, 2007

Karen E. Rock #01R06065213  
Notary Public, State of New York  
Qualified in Schenectady County  
Commission Expires: 10/09/2009

Kathryn A. Rock-McClosky  
Commissioner of Deeds  
Qualified in Schenectady County  
Commission Expires: 08/27/2004

Attorney Info:  
Petroff & Bellin, LLP  
60 East 42nd Street  
New York, NY 10165

Mark E. McClosky  
Deponent

affidavit number: 200767947

FIRM FILE #